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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

USA COMMERCIAL MORTGAGE COMPANY,
USA CAPITAL REALTY ADVISORS, LLC,
USA CAPITAL DIVERSIFIED TRUST DEED FUND,
LLC,
USA CAPITAL FIRST TRUST DEED FUND, LLC,
USA SECURITIES, LLC,

Debtors.

Affects:

- ☐ All Debtors
☒ USA Commercial Mortgage Company
☐ USA Capital Realty Advisors, LLC
☐ USA Capital Diversified Trust Deed Fund, LLC
☒ USA Capital First Trust Deed Fund, LLC
☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR
Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No. BK-S-06-10725 LBR

**Partial Objection of USACM Trust To Coxey
Living Trust Claim to the Extent Filed in
Wrong Debtor's Case; Objection of FTDF to
Claim as Duplicative of Claims Previously
Disallowed and Reclassified As Equity Interests
in Corrected Amounts**

Hearing Date: October 15, 2007
Hearing Time: 9:30 a.m.

Coxey Living Trust, Kenneth D. Coxey and Valerie Coxey (“Coxey”) filed Proof of Claim No. 10725-00150 against USA Commercial Mortgage Company (“USACM”) in the amount of \$252,519.44. The proof of claim attachments show it is based on several loans serviced by USACM, and also in part on a \$100,000 equity investment in USA Capital First Trust Deed Fund, LLC (“FTDF”) by Kenneth D. and Valerie Coxey on behalf of the Coxey Living Trust, shown to have a “book value” of \$104,000.62. The USACM Liquidating Trust (the “USACM Trust”) hereby objects at this time to the portion of the Coxey claim that is based on the FTDF equity investment (\$104,000.62), without waiving the right to file additional objections to the remainder of the claim (\$148,518.82) at a later date. To the extent based on the FTDF investment, it is a claim that was incorrectly filed in the USACM case.

The USACM Trust respectfully requests that the FTDF investment portion of this claim (\$104,000.62) be disallowed as a claim against USACM. Any claim held by Coxey against USACM solely on account of an investment in FTDF is derivative of FTDF’s claims against USACM. Under a settlement approved by the Court on June 12, 2007, all such FTDF claims were settled, with FTDF holding a \$7.0 million allowed general unsecured claim and beneficial interest in the USACM Liquidating Trust. The equity interest holders in FTDF will share in any recovery on account of that claim.

The Official Committee of Equity Security Holders of FTDF (“FTDF Committee”) further objects to any proposed allowance of the Coxey claim against the FTDF estate. Coxey filed a claim in the FTDF estate, *i.e.* claim number 10728-00148 in the amount of \$101,260.86 based upon its membership interests in FTDF. The FTDF Committee objected to this claim. By order of March 21, 2007 (D 3229), the Coxey claim was reclassified as a FTDF equity interest. Because the claim as filed reflected an amount in excess of the amount shown on FTDF’s records as the amount of the Coxey equity interest as of the petition date, the March 21, 2007 order also provided that the Coxey claim to be

1 allowed as a proof of interest would be limited to \$100,000. Coxey is not entitled to a
2 duplicative claim or interest in the FTDF case on account of its mis-filing of a proof of
3 claim in the USACM case. Accordingly, the FTDF Committee objects to any proposed
4 allowance of the Coxey claim in the FTDF case, as duplicative of the Coxey claim
5 previously allowed as a reclassified proof of interest in the amounts of \$100,000.

6 This objection is made pursuant to Bankruptcy Code section 502, Federal Rule of
7 Bankruptcy Procedure 3007, and Local Rule of Bankruptcy Practice 3007.

8 Dated: August 8, 2007
9

10 By: /s/ Eve H. Karasik
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24 FUND, LLC
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LEWIS
AND
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LAWYERS

Copy of the foregoing
Mailed this 8th day of
August, 2007 to:

The Coxey Living Trust
1945 Hidden Meadows Dr.
Reno, NV 89502

By /s/ Renee L. Creswell